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# City of Sulphur

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## **SEIZED FUNDS NOT REMITTED TO THE DISTRICT ATTORNEY**

During our investigation, we found that the City of Sulphur police department's drug safe contained \$2,625 that was associated with eight seizures dating back to 1988. When these funds were seized, the department routinely held cash until its subsequent adjudication by the court, at which time, the department made the required distributions to the criminal court fund and the district attorney. Although this procedure was abandoned some time ago and currently all seized funds are remitted to the district attorney, the police department continued to hold this cash.

In addition, the cash in the safe was \$200 less than that originally seized. Captain Keith Andrus, who is head of narcotic investigations, informed us that the \$200 had been borrowed from the safe and used to supplement the "buy money" petty cash fund. "Buy money" is used to pay confidential informants for information and to purchase illegal drugs during law enforcement operations. Captain Andrus further explained that the \$200 was in envelopes in his desk. He then removed the money from his desk and returned it to the drug safe.

The Property Forfeiture Law (R.S. 40:2681, et seq.) provides that negotiable instruments or money seized under the law, which is not needed for evidentiary purposes, is to be remitted to the district attorney for deposit into the asset forfeiture trust fund.

The department has now remitted the \$2,825 (\$2,625 + \$200) to the district attorney. The department currently has in place a procedure providing that all funds seized under the Property Forfeiture Law are remitted to the district attorney. We recommend that the department not commingle seized funds with its "buy money" petty cash funds.

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## **AUCTION PROCEEDS NOT REMITTED TO THE DISTRICT ATTORNEY**

The City of Sulphur failed to remit auction proceeds to the district attorney's office as required by the Property Forfeiture Law.

The City of Sulphur collected auction proceeds totaling \$160,520 from the sales of seized property in 1994, 1995, and 1996, under the Property Forfeiture Law. The city used \$4,719 of these proceeds to pay auction costs (including labor and advertising costs) and then remitted 20 percent of the remaining funds to the criminal court fund and 20 percent to the district attorney's office.

The Calcasieu Parish Sheriff's Office should refund the \$741 to the original owners and establish procedures that ensure, when appropriate, refunds are made in a timely manner.

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# Calcasieu Parish Sheriff's Office

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## AUCTION PROCEEDS NOT REMITTED TO DISTRICT ATTORNEY

The Calcasieu Parish Sheriff's Office collected a total of \$113,478 from the sale of seized vehicles in 1994, 1995, and 1996, but failed to remit these funds to the district attorney. The Property Forfeiture Law requires that these proceeds be deposited into the district attorney's asset forfeiture trust fund.

R.S. 40:2816 provides, in part, that the district attorney may authorize a public sale of seized assets which are not required by law to be destroyed and which are not harmful to the public. The proceeds of any sale shall be deposited in the asset forfeiture trust fund. After the payment of security interests or liens and all proper expenses for forfeiture and sale, the remaining funds are allocated to the law enforcement agency making the seizure, the criminal court fund, and the district attorney's office.

The Calcasieu Parish Sheriff's Office sold forfeited property through auctions in 1994, 1995, and 1996. The sheriff's office collected \$40,136 during the 1994 auction, \$5,880 from the auction held during 1995, and \$58,462 during the 1996 auction. Although the sheriff's office collected \$113,478 from these sales, none of the proceeds resulting from the sale of forfeited property were remitted to the district attorney for deposit into the asset forfeiture trust fund as required by law. This prevented the district attorney from allocating these funds to the sheriff's office, criminal court fund, and the district attorney's office in accordance with law.

The Calcasieu Parish Sheriff's Office should remit the gross proceeds from the sale of assets seized under the Property Forfeiture Law to the district attorney.

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## FAILURE TO REFUND SEIZED CASH

The Calcasieu Parish Sheriff's Office failed to refund \$341 seized from individuals in drug-related cases that were not prosecuted.

In 1996, the District Attorney for the Fourteenth Judicial District issued three checks totaling \$741 to the Calcasieu Parish Sheriff's Office for three cases for which the district attorney's office determined there was not sufficient evidence to prosecute. The Calcasieu Parish Sheriff's Office received the checks and recorded the money as Narcotics Revenue instead of returning the money to the original owners.

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# Jefferson Davis Parish Sheriff's Office

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## ACCOUNTING ERROR RESULTS IN UNDERPAYMENTS TO DISTRICT ATTORNEY AND CRIMINAL COURT FUND

The Jefferson Davis Parish Sheriff's Office incorrectly computed gross proceeds of the June 1995 auction of forfeited assets. As a result, the sheriff's office remitted \$10,000 less to the district attorney's office than the actual auction proceeds. This resulted in the district attorney's office and the criminal court fund receiving \$1,000 less than their appropriate share of the proceeds.

R.S. 40:2635 provides that proceeds from the sale of seized property are to be deposited in the district attorney's asset forfeiture fund and expenditures from the fund are to be administered by the district attorney. After payment of proper expenses resulting from the sale of forfeited items, the remaining funds shall be allocated 60 percent to the law enforcement agency, 20 percent to the criminal court fund, and 20 percent to the district attorney's office.

Sheriff Richard Edwards agreed that he made the \$10,000 error when preparing his final schedule for the June 1995 auction.

The Jefferson Davis Parish Sheriff's Office should remit the \$10,000 to the district attorney's office so that the district attorney can properly disburse the funds in accordance with the Property Forfeiture Law.

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**District Attorney for the Thirty-First  
Judicial District  
(Jefferson Davis Parish)**

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**ERRORS NOTED IN ACCOUNTING  
FOR FUNDS**

The District Attorney for the Thirty-First Judicial District of Louisiana failed to (1) disburse all forfeited assets in a timely manner, (2) remit the proceeds from the sale of forfeited vehicles to the sheriff and criminal court fund, and (3) properly account for the funds in the asset forfeiture trust fund.

The Property Forfeiture Law (R.S. 40:2681, et seq.) provides that all funds obtained under the law shall be deposited into the district attorney's asset forfeiture fund. Forfeited property may be sold through public sale and the proceeds deposited into the asset forfeiture fund. After satisfaction of security interests and liens and payment of expenses, the remaining funds are allocated 60 percent to the law enforcement agency making the seizure, 20 percent to the criminal court fund, and 20 percent to the district attorney's office.

When reviewing the district attorney's accounting for these funds, we noted errors as follows:

- The forfeited funds obtained in two cases, one adjudicated in June 1994 and another adjudicated in February 1996, totaling \$7,445, had not been disbursed to the sheriff, criminal court fund, and district attorney's office as of February 1997.
- Proceeds of \$4,616 resulting from the May 1994 sheriff's sale of two forfeited automobiles were not properly disbursed to the sheriff and criminal court fund.
- On December 31, 1996, the asset forfeiture trust fund had a balance of \$657,633. According to records of the district attorney's office, \$656,381 of this amount was seized from individuals and is being held for unclaimed cases. However, we noted that interest earned and included in the account was at least \$4,905. Therefore, the balance of the account should be at least \$4,905 greater than the amount of the unclaimed cases. Because it is not, the district attorney's accounting for this fund is in error.

The district attorney should disburse funds from the asset forfeiture trust fund in a timely manner after being ordered by the court. In addition, proceeds from the sale of forfeited assets should be distributed to the sheriff, criminal court fund, and the district attorney's office in accordance with law. Furthermore, the district attorney should identify the source of all funds held in the asset forfeiture trust fund and maintain an accurate accounting for this fund in the future.

# STATE OF LOUISIANA LEGISLATIVE AUDITOR

Drug Asset Seizure and Forfeiture Funds

May 19, 1997



*Investigative Audit*

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*Daniel G. Kyle, Ph.D., CPA, CFE*  
*Legislative Auditor*

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**DIRECTOR OF INVESTIGATIVE AUDIT**

**Allen F. Brown, CPA, CFE**

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report has been made available for public inspection at the State Comptroller's Office of the Legislative Auditor and at the offices of the parish clerk of court.



OFFICE OF  
LEGISLATIVE AUDITOR  
STATE OF LOUISIANA  
BATON ROUGE, LOUISIANA 70804-0007

DANIEL G. KYIE, CPA, CFE  
LEGISLATIVE AUDITOR

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May 19, 1997

The Honorable Stephen J. Wardlaw, Chairman  
The Honorable Aubrey A. McCain, Vice-Chairperson,  
and Members of the Committee on  
Administration of Criminal Justice  
Louisiana House of Representatives  
Fax: Office Box 44486  
Baton Rouge, Louisiana 70804

Dear Mr. Chairman, Madam Vice-Chair, and Members:

Transmitted herewith is our report on the use of drug asset seizure and forfeiture funds acquired through R.S. 40:2803, et seq., Louisiana's Property Forfeiture Law. Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to address concerns expressed by the House Committee on Administration of Criminal Justice.

This report presents our findings and recommendations, as well as the responses of management of the various agencies examined. Copies of this report have been delivered to each of the officials reported herein and others as required by state law.

Respectfully submitted,

Daniel G. Kyie, CPA, CFE  
Legislative Auditor

AJK/ks

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# Drug Asset Seizure and Forfeiture Funds

May 18, 1997



Investigative Audit  
Office of the Legislative Auditor  
State of Louisiana  
Daniel G. Kyle, Ph.D., CPA, CFE  
Legislative Auditor

Ill.S. 40-2616 provides that proceeds from the sale of seized property are to be deposited in the district attorney's asset forfeiture fund and expenditures from the fund are to be administered by the district attorney. The statute further provides a specific order of priority for the distribution of money in the fund. Money in the fund is to be used first to satisfy security interest or liens against forfeited property. Thereafter, the funds may be used for payment of expenses of the proceedings of forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs. The remaining funds are allocated between the applicable law enforcement agency, criminal court fund, and the district attorney.

Because the city did not remit all proceeds of the auctions to the district attorney's office, these funds were not deposited into the asset forfeiture trust fund as required by law. Had these been outstanding security interests, liens, or other expenditures, these funds may not have been available for proper administration by the district attorney.

The City of Solihair should remit all proceeds from the sale of assets seized under the Property Forfeiture Law to the district attorney's office.

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**Failure to Refund Seized Cash**

(Page 5)

**(Calcasieu Parish Sheriff's Office)**

- Finding:** The Calcasieu Parish Sheriff's Office failed to refund \$741 seized from individuals in drug-related cases that were not prosecuted.
- Recommendation:** The Calcasieu Parish Sheriff's Office should refund the \$741 to the original owners and establish procedures that ensure, when appropriate, refunds are made in a timely manner.
- Management's Response:** The accounting department mistakenly assumed that these funds were the sheriff's share of proceeds distributed from the asset forfeiture account. Every effort will be made to return these funds to the defendants.
- 

**Seized Funds Not Remitted to the**

(Page 7)

**District Attorney (City of Sulphur)**

- Finding:** During our investigation, we found that the police department's drug safe contained \$2,625 that was associated with eight seizures dating back to 1989. When these funds were seized, the department routinely held cash until its subsequent adjudication by the court, at which time, the department made the required distributions to the criminal court fund and the district attorney. Although this procedure was abandoned some time ago and currently all seized funds are remitted to the district attorney, the police department continued to hold this cash.
- Recommendation:** The City of Sulphur Police Department remitted the \$2,625 to the district attorney after this was brought to the department's attention. The department currently has in place a procedure providing that all funds seized under the property forfeiture law are remitted to the district attorney. We recommend that the department not commingle seized funds with its buy money petty cash funds.

**Management's Response:** All monies seized and/or otherwise received by the Police Department will be remitted to the proper authority expeditiously. There will be no commingling of seized funds with any other funds.

A petty cash account has been established for the Police Department's use and will be properly maintained and controlled.

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**Auction Proceeds Not Remitted to  
the District Attorney (City of Sulphur)**

(Page 7)

**Finding:** The Sulphur Police Department failed to remit auction proceeds to the District Attorney's Office as required by the property forfeiture law.

**Recommendation:** The City of Sulphur should remit the gross proceeds from the sale of assets seized under the property forfeiture law to the district attorney's office.

**Management's Response:** The gross proceeds from future auctions will be promptly remitted to the District Attorney along with all auction cost vouchers and supporting documents.

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**Matter for Consideration**

(Attachment B)

**Finding:** The Property Forfeiture Law (R.S. 40-2601, et seq.) provides that 60 percent of the money in the asset forfeiture fund, after being reduced for bona fide security interests or liens and other expenses, shall be allocated to the law enforcement agency making the seizure. Such proceeds are to be used in drug law enforcement, including, but not limited to, reward programs. In performing our investigation, we attempted to determine whether the law enforcement agencies used funds obtained through the Property Forfeiture Law for "drug law enforcement." We discovered that in some instances the relationship of a particular expenditure to the enforcement of drug laws was clearly established. However, in other instances, this relationship was not clear.

**Recommendation:** We recommend that, for all expenditures of funds obtained through the Property Purchase Law, these agencies document the relationship of the expenditures to drug law enforcement. In some instances, such as with patrol officer salaries and computer costs, this may involve developing an appropriate method of allocating the cost associated with drug law enforcement to the asset forfeiture funds and using other funds to pay the portions of the costs associated with general law enforcement.

The Legislature may wish to consider legislation that either (1) allows an indirect use of these funds in drug law enforcement or (2) specifically prohibits the use of funds for any purpose other than directly related to the enforcement of drug laws.

**Management's Response:** Jefferson Davis Parish Sheriff

Over the years we have had difficulty in trying to come up with a reasonable approach to satisfy our need to comply with the specifics of the law in this area. We have struggled with this issue and have come to what we feel is a reasonable approach to determining the amount of costs associated with drug law enforcement.

We feel that the expenditures for the purchase of these computers were reasonable since the narcotics department has never reimbursed the general fund for its allocable portion of the administrative computers, supplies, and annual support services. In the future, we will allocate costs of such items between departments.

The meals purchased were drug law enforcement related. We agree that documentation concerning who needed and for what reason should have been more descriptive in nature. In the future, we will document expenditures of this type in more detail.

The expenditure for hamburgers should not have been paid with asset forfeiture funds. This was a clerical error and was simply paid out of the wrong fund. We will reimburse the narcotics department for this expenditure.

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# Executive Summary

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## Investigative Audit Report Drug Asset Seizure and Forfeiture Funds

The following summarizes the findings and recommendations, as well as responses of the various public officials, that resulted from this investigation. Detailed information relating to the findings and recommendations may be found at the page number indicated. Management's responses may be found in Attachment II.

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**Errors Noted in Accounting for Funds**  
*(District Attorney for the Thirty-First  
Judicial District - Jefferson Davis Parish)*

(Page 1)

- |                               |   |
|-------------------------------|---|
| <b>Finding:</b>               | The District Attorney for the Thirty-First Judicial District of Louisiana failed to (1) disburse all forfeited assets in a timely manner, (2) remit the proceeds from the sale of forfeited vehicles to the sheriff and criminal court fund, and (3) properly account for the funds in the asset forfeiture trust fund.   |
| <b>Recommendation:</b>        | The district attorney should disburse funds from the asset forfeiture trust fund in a timely manner after being appropriately ordered by the court. In addition, proceeds from the sale of forfeited assets should be appropriately distributed to the sheriff, criminal court fund, and the district attorney's office. Furthermore, the district attorney should properly identify the source of all funds held in the asset forfeiture trust fund and maintain an accurate accounting for this fund in the future. |
| <b>Management's Response:</b> | Management concurs with each finding and has either taken corrective action or will take the necessary steps to prevent these problems in the future.   |
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**Accounting Error Results in Underpayments to  
District Attorney and Criminal Court Fund  
(Jefferson Davis Parish Sheriff's Office)**

(Page 3)

- Finding:** The Jefferson Davis Parish Sheriff's Office incorrectly computed gross proceeds of the June 1995 auction of forfeited assets. As a result, the sheriff's office remitted \$10,000 less to the district attorney's office than the actual auction proceeds. This resulted in the district attorney's office and the criminal court fund receiving \$2,000 less than their appropriate share of the proceeds.
- Recommendation:** The Jefferson Davis Parish Sheriff's Office should remit the \$10,000 to the district attorney's office so that the district attorney can properly disburse the funds in accordance with the property forfeiture law.
- Management's Response:** An administrative error was made when preparing the final schedule for the June 1995 auction of forfeited drug assets. As of May 15, 1997, the entire \$10,000, of which 60% or \$6,000 is due to the Sheriff's Office, has been remitted to the District Attorney.
- 

**Auction Proceeds Not Remitted to District Attorney  
(Calcasieu Parish Sheriff's Office)**

(Page 4)

- Finding:** The Calcasieu Parish Sheriff's Office collected a total of \$115,478 from the sale of seized vehicles in 1994, 1995, and 1996, but failed to remit these funds to the district attorney. The property forfeiture law requires that these proceeds be deposited into the district attorney's asset forfeiture trust fund.
- Recommendation:** The Calcasieu Parish Sheriff's Office should remit the gross proceeds from the sale of assets seized under the property forfeiture law to the district attorney.
- Management's Response:** Management informed the audit team that auction proceeds had not been remitted to the District Attorney. This has been corrected and all proceeds have been remitted to the District Attorney.
-

We included the following entities in our investigation:

- District Attorney for the Third-First Judicial District
- Jefferson Davis Parish Sheriff's Office
- Criminal Court Fund - Jefferson Davis Parish
- District Attorney for the Fourteenth Judicial District
- Calcasieu Parish Sheriff's Office
- Criminal Court Fund - Calcasieu Parish
- City of Sulphur

Our investigation included the following procedures:

1. Examined the asset forfeiture funds maintained by the district attorneys' offices
2. Examined the district attorneys' distribution of funds from the asset forfeiture trust funds
3. Examined expenditures of the district attorneys' offices funded with asset forfeiture funds
4. Examined the sheriffs' and the municipality's accounting of forfeited property
5. Examined transactions associated with the auction or other disposal of forfeited property
6. Reviewed transactions of the criminal court funds for Calcasieu and Jefferson Davis parishes
7. Reviewed Louisiana statutes, Attorney General opinions, and other regulations as they relate to the property forfeiture law
8. Interviewed employees of the various governmental agencies and other individuals as necessary
9. Made inquiries and observations to the extent we considered necessary to achieve our purpose

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# Background and Methodology

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Louisiana adopted its drug asset seizure and forfeiture law in 1983. Act 616 of 1983 amended Title 32 of the Louisiana Revised Statutes of 1950 to include provisions relating to seizure and forfeiture of controlled dangerous substances and contraband. Subsequently, Act 375 of 1989 created the Property Forfeiture Law (R.S. 40:2601, *et seq.*) and provided for conduct giving rise to forfeiture, management and preservation of seized property, the disposition and use of forfeited property, and other matters.

The House Committee on the Administration of Criminal Justice expressed concerns regarding the use of funds derived from Louisiana's Property Forfeiture Law. This investigation was performed to address these concerns by determining whether forfeited assets were properly distributed to the various governmental agencies and used and/or disposed of in accordance with the law.

The Property Forfeiture Law, established the Special District Attorney Asset Forfeiture Trust Fund in which all funds obtained under the provisions of the property forfeiture law shall be deposited. This law also provides that the district attorney may authorize a public sale of seized assets which are not required by law to be destroyed and which are not harmful to the public. The proceeds of any sale shall be deposited in the asset forfeiture fund.

The Property Forfeiture Law also provides that the office of the district attorney shall administer expenditures from the fund and specifies the order in which the money is distributed. This order requires that funds be distributed first to satisfy any security interest or lien and then for payment of expenses associated with the forfeiture sale. The remaining is allocated by the district attorney as follows:

- (1) 60 percent to the law enforcement agency or agencies making the seizure;
- (2) 20 percent to the criminal court fund; and
- (3) 20 percent to the district attorney's office that employs attorneys that handle the forfeiture action for the state.

The Property Forfeiture Law further provides that drug forfeiture monies allocated to a law enforcement agency are to be used for drug law enforcement, including, but not limited to, reward programs established by such agencies. Those funds allocated to the district attorney's offices may be used for any public purpose. Funds allocated to the criminal court fund may be used for the operations of the court.

## Findings and Recommendations

**Jefferson Davis Parish Sheriff's  
Office**

## City of Sulphur

41765 8-8-87

Calcasieu Parish District Attorney

003 335-0000 \$8500.00

Sale of 4 vehicles - Lafayette Auto Auction 10 JRS

Walter McElveth, Sheriff

047765

00000000000000000000

WALTER McELVETH, Sheriff  
CALCASIEU PARISH  
SHERIFFS GENERAL FUND  
LAUD CAPITAL PROGRAM

MP

047765

DATE 8-8-87  
CHECK NO. 41765  
AMOUNT \$8500.00

PER DEBITOR  
\$8500.00

FOR THE DEPT OF  
Calcasieu Parish District Attorney

WALTER McELVETH, Sheriff  
GENERAL FUND

*Walter McElveth*

41765 OF 0065 87090 88C

00 100 305\* 40

813 000.0000

84222.00

Auction Proceeds  
(Federal Auction - 8/94)

Wynn Williams, Esq.

047625

84222.00

Wynn Williams, Esq.  
CALCATED FUND  
BENNETT GENERAL FUND  
LAW OFFICES, CHICAGO

047625

DATE: 8-21-97  
AMOUNT: 84222.00  
\*\*\*\*\*84222 DOLLARS AND 00 CENTS\*\*\*\*\*

FOR DEPOSIT TO  
CALCATED FUND BENNETT FUND

Wynn Williams, Esq.  
CHICAGO, ILL

*Wynn Williams, Esq.*

FDX 762 04 0000 00 00 00 00

00 400 0004 10

47782 00000

CALCATED FUND BENNETT FUND

813 000.0000

7622.00

Auction Proceeds  
(Federal Auction - 8/94)

Wynn Williams, Esq.

047782

7622.00

Wynn Williams, Esq.  
CALCATED FUND  
BENNETT GENERAL FUND  
LAW OFFICES, CHICAGO

047782

DATE: 8-21-97  
AMOUNT: 7622.00  
\*\*\*\*\*7622 DOLLARS AND 00 CENTS\*\*\*\*\*

FOR DEPOSIT TO  
CALCATED FUND BENNETT FUND

Wynn Williams, Esq.  
CHICAGO, ILL

*Wynn Williams, Esq.*

FDX 762 04 0000 00 00 00 00

00 400 0004 10

Walter McElvaine Mason

check no. 047622

DATE 5-8-87	CHECK NO. 87622	AMOUNT \$12,000.00
*****12000 DOLLARS AND NO CENTS*****		
PAY TO THE ORDER OF Calumet Parish District Attorney		Walter McElvaine Mason MEMBER FUND

#047622 000000000000

00 000 00 00 00

DATE  
4/7/84

5-8-87

Calumet Parish District Attorney

000 000.000

\$12000.00

Southern Justice Payments  
(8/80)

Walter McElvaine Mason

check no. 047764

DATE 5-8-87	CHECK NO. 87764	AMOUNT \$11,000.00
*****11000 DOLLARS AND NO CENTS*****		
PAY TO THE ORDER OF Calumet Parish District Attorney		Walter McElvaine Mason MEMBER FUND <i>Walter McElvaine Mason</i>

#047764 000000000000

00 000 00 00 00

812 985.0000

\$8840.00

Jurisdiction Proceeds  
(Peterson Justice 8/98)

Case No: 047626

DEFENDANT	Mervyn M. Peterson, Deputy CALIFORNIA PARISH SHERIFF'S GENERAL FUND LAST KNOWN AS: LOS ANGELES	Case No: 047626
PAY TO THE ORDER OF	DATE: 8-25-97 AMOUNT: \$8840.00 *****	Mervyn M. Peterson SHERIFF'S FUND
PAY TO THE ORDER OF California Parish District Attorney		<i>Mervyn M. Peterson</i>

FD-476 (Rev. 10-15-95) 001 5 00 00 0000 000000000000 10

812 985.0000 8/25/97 California Parish District Attorney

812 985.0000 8/25/97 Jurisdiction Proceeds  
(Peterson Justice 8/98)

Case No: 047763

DEFENDANT	Mervyn M. Peterson, Deputy CALIFORNIA PARISH SHERIFF'S GENERAL FUND LAST KNOWN AS: LOS ANGELES	Case No: 047763
PAY TO THE ORDER OF	DATE: 8-25-97 AMOUNT: \$8840.00 *****	Mervyn M. Peterson SHERIFF'S FUND
PAY TO THE ORDER OF California Parish District Attorney		<i>Mervyn M. Peterson</i>

FD-476 (Rev. 10-15-95) 001 5 00 00 0000 000000000000 10

In these cases, the District Attorney remitted by check to the CFO. In the absence of instructions that these funds were to be returned to the defendants, the accounting department mistakenly assumed that these funds totaling \$ 741.80 were the Sheriff's Department share of assets that had been forfeited and the funds were credited to the asset forfeiture account. None of the defendants in these cases have come forward to claim these funds, possibly due to having their charges rejected and not desiring to associate themselves with the drugs and cash that were seized. Every effort will be made to return these funds to the defendants. In the event they cannot be located, the funds will be held the appropriate time and submitted to the state as unclaimed property.

We have instituted new procedures in our office and we have met with the District Attorney and his staff to implement procedures that will prevent future occurrences of this problem.

Please bear in mind that the \$741.80 involved in this finding is a very small percentage of the total of \$ 1,121,008.00 in property seized from drug dealers during the three year period of the audit. Also, these three cases represent a very small percentage of the total cases in which charges were rejected and assets were properly returned to defendants.

Sheriff



## Wayne F. McElveen

DEPUTY SHERIFF

OFFICE OF SHERIFF

401 5TH ST

WAYNE COUNTY, MISSISSIPPI 39378

### Auction Proceeds

In preparation for the audit by the Legislative Auditor's Office we became aware that auction proceeds had not been remitted to the District Attorney for distribution. We made the audit team aware of this fact during the entrance interview for the audit. The forfeited items sold were sold at public auction, as required by law, and except for two instances, forfeiture items were sold as part of a large auction including other salvage property belonging to the CPPO. The proceeds were not remitted to the District Attorney. This has been corrected and all due proceeds have been remitted to the District Attorney, as evidenced by the attached check copies. Your finding states that \$113,478.00 was not remitted to the District Attorney. Please bear in mind that \$29 or \$28,084.80 of these proceeds will be returned to the Sheriff's Department as our agency's share of the asset forfeitures. Also, all security interest, Lien and other expenses had been paid at the time of the auction. We have taken measures to ensure that future auction proceeds are timely remitted.

In the two instances that are exceptions as noted above, we had interpreted the law to exclude these instances, as follows:

- 1) A number of older seized vehicles were sold and the proceeds used to purchase better vehicles for our executive enforcement division. Our original intent was to handle this transaction as a trade. This is allowed and would have resulted in no distribution to the District Attorney. Unfortunately, the transaction was reflected as a sale rather than a trade.
- 2) In 1994 a motor home was seized and a Lien in the amount of \$ 17,756.00 was paid by CPPO in order to keep the seized asset. The motor home was used for narcotics surveillance for two years and was later sold for a net of \$ 13,620.80 resulting in a loss on the transaction of \$ 4,135.20. It was our opinion that since there was a loss of \$ 4,135.20 on the transaction that no distribution to the District Attorney was due, but we have complied with the audit finding and remitted \$11,420.00 to the District Attorney.

### Refund of Seized Cash

These three items were handled in a manner that was not in the ordinary course of business. In cases where seized funds have been sent to the District Attorney's Office and deposited in their asset forfeiture account, and charges are rejected, the refunds are normally made by the District Attorney directly to the defendant.

Sheriff



Wayne F. McElveen

SHERIFF AND COUNTY PROSECUTOR

77 WEST 118

STATE OF LOUISIANA

P.O. BOX 100

LAKE CHARLES, LOUISIANA 70601

May 13, 1987

Samuel G. Fyfe, Ph.D., CPA, CFE  
 Legislative Auditor  
 State of Louisiana  
 Baton Rouge, LA 70804-5097

Dear Mr. Fyfe:

Enclosed is our response to the findings contained in the investigative audit report of May 6, 1987. We found the audit to be very thorough and professional, and it is our interpretation that there were no major findings to report. It is obvious that in the case of the Calcasieu Parish Sheriff's Department, the audit findings do not support allegations made by the "Metroline" story.

We would certainly prefer to have no audit findings, but with the size and scope of our narcotics endorsement operation, the nature of the war against drug dealers and the inherent limitations of our judicial system, an audit with no findings would be unrealistic. However, the audit will assist us in improving the professionalism of our department.

It is very important to us, as Sheriff, that the public know that we handle our duties and responsibilities in a very professional manner. In reporting to the Legislature, it is our hope that you will also report that these findings do not represent major findings considering the size of our operation and the detailed scope of your audit.

We extend our sincere appreciation to the Investigative Audit Team for the courteous and professional manner in which the audit was conducted. Thank you.

Sincerely,

Wayne F. McElveen  
 Sheriff

SM/SMH

Enclosure

Matter For Consideration

We have perused this section of the report and submit the following:

- (A) We will seek legal clarification of the Property Forfeiture Law (R.S. 40:2603 et. seq.) for the purpose of determining a method of accounting for expenditures as related to drug law enforcement.
- (B) "Buy Money" will be used for the purpose of:
  - (1) Paying confidential informants for information.
  - (2) To purchase illegal drugs during law enforcement operations.
- (C) As an internal control, periodic audits will be conducted for accountability of drug "buy money" and petty cash. This control will be effected by the Department of Finance and/or our independent auditor.
- (D) The financial schedule of revenues and expenditures for the fiscal years ended June 30, 1994 - 1996 submitted in your report are recognized as being fairly presented and representative of our financial records for the three (3) year audit period.

Thank you.



that patrol officers regularly participate in a variety of drug law enforcement related situations. We therefore concluded that a portion of the costs of the salaries of those officers was reasonably allocable to the narcotics department along with all of the associated benefits and support costs. Based on a review of statistics from our office along with that of the U. S. Department of Justice we concluded that approximately fifty percent of those costs could be a regular basis be reasonably associated with drug law enforcement. We reviewed and discussed this issue with the District Attorney and our auditors. It was concluded that this approach was reasonable, especially considering the fact that we were not even taking into consideration the indirect support (i.e. department paper work and handling, justice time and handling, sheriff and sheriff deputy fees, etc.) and administrative costs (salaries, benefits, supplies services and supplies and computer systems involved in accounting for costs allocated for in other departments within our general ledger system. Based on this we feel that this approach is reasonable and complies with the law.

#### **PURCHASE OF COMPUTERS**

The auditors indicated that the Assistant District Parish Sheriff's Office used \$6,414 of asset forfeiture funds to purchase three computers. The comment further stated that these computers was used for the general operation of the Sheriff's Office, including but not limited to drug law enforcement. We feel that these expenditures were reasonable since the narcotics department has never reimbursed the general fund for its allocable portion of the administrative computers, supplies and annual support services. In addition, portions of the work performed on these computers are directly related to drug law enforcement. Under the circumstances previously mentioned, we feel that this is a valid expense to be allocated directly to the narcotics department. In the future we will allocate costs of such items between departments.

#### **MINOR MEAL EXPENDITURES**

After reviewing the information with regard to the \$150 in meals at a local restaurant, we have concluded that these expenses were in fact drug law enforcement related. However, we agree that the documentation concerning who attended and for what reason should have been more descriptive in nature. In the future we will document expenditures of this type in more detail.

The \$40 expenditure for hamburgers should not have been paid with asset forfeiture funds. This was a clerical error and was simply paid out of the wrong fund. We will reimburse the narcotics department for this expenditure. In addition, we will implement procedures that include closer scrutiny of invoices in the future, regardless of dollar amount, coded to this department.

I hope that these responses will be acceptable to you. Should you have any other questions, please do not hesitate to contact me.

Sincerely,

  
Richard Edwards, II,  
Sheriff

# RICHARD 'RICKY' EDWARDS, JR.

SHERIFF AND EX-OFFICIO TAX COLLECTOR  
JEFFERSON DAVIS PARISH, LOUISIANA

## ADMINISTRATION

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May 14, 1997

Dr. Don Kyle, Legislative Auditor  
Office of the Legislative Auditor, State of Louisiana  
P.O. Box 94397  
Baton Rouge, LA 70804-0397

Dear Dr. Kyle:

Please accept the following as my response to your Preliminary Draft Findings:

### AUDITEE RESPONSE

After reviewing the document made in this area, we have concluded that in fact a \$10,000 administrative error was made when preparing the final schedule for the June 1993 session of Probation drug courts. As of May 15, 1997, the entire \$10,000, of which \$694 or \$4,000 is due to the Sheriff's Office, has been remitted to the District Attorney of the Third-First Judicial District. We understand that financial audits by their very nature are negative in approach, in that, they look for problems and things done wrong. We take issue in the fact that the Legislative Auditor's Office discovered no material errors, or noncompliance with laws. Based on the comments made as a result of this audit we are presently in the process of implementing additional procedures and accounting controls that will help to ensure that administrative errors such as the one previously mentioned are prevented, or at least discovered by our office on a more timely basis.

### ALLOCATION OF EXPENSES

In matters for consideration, the auditors indicated that during 1994, 1995, and 1996, 85% percent of stipulated salaried officers' salaries were paid with use of money obtained from the assets forfeiture fund. As stated in the auditor's introduction, the law does allow the "proceeds to be used in drug law enforcement, including but not limited to covered programs." Over the years we have had difficulty in trying to come up with a reasonable approach to satisfy our need to comply with the specifics of the law in this area. The actual cost of providing drug law enforcement services is difficult at best to define, much less determine on a historical or after-the-fact basis. In some instances, as pointed out by the auditors, the relevancy of a particular expenditure is clearly established while others are not. Over the years we have struggled with this issue and have come to what we feel is a reasonable approach to determining the amount of costs associated with drug law enforcement.

When the present administration took over we immediately implemented an in-house computerized general ledger accounting system. Prior to that time no general ledger was maintained in the Sheriff's Office.

Within this accounting system we setup a separate department for narcotic investigations, which directly handles and coordinates drug law enforcement. All funds received from drug forfeiture proceedings are deposited into a separate account and accounted for within the narcotic department general ledger system.

As we began to operate, as a new administration, we quickly learned that this department was not the only one that was in fact financing drug enforcement related costs. We began looking closer at this situation and concluded that a considerable amount of costs associated for in other departments was also related to drug law enforcement, but was not being reimbursed by the narcotic department. For instance, we concluded

**Management's Response: City of Sulphur**

We will seek legal clarification of the Property Forfeiture Law. Buy money will be used for paying confidential informants and purchasing illegal drugs during law enforcement operations. Periodic audits will be conducted for accountability of drug buy money and petty cash.

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Office of Legislative Auditor

May 9, 1997

Page 2

office. This was a very unique and unusual transaction, but we will take the necessary steps to try to prevent this problem in the future.

In response to the third finding, I admit that the asset forfeiture trust fund had a net balance of \$657,633.08, and that our list of outstanding cases totaled \$656,381.00. Based upon estimated interest earned, the trust fund should have a balance of approximately \$4,305.08 more than the balance of outstanding cases; therefore, there is apparently a discrepancy of approximately \$3,600.08.

I know that a few cases during the past eight years were resolved by returning the money to the claimant without any court action. My office did not have an internal procedure established to properly track these cases and the funds associated thereto. We will go back and look at the unresolved cases to establish which cases were resolved in that manner, so that we can remove the case from our list. In other words, I believe the balance in the account is correct, but the list of cases probably has a few cases listed that have already been disbursed. My office will also take the necessary steps to prevent this problem in the future.

If you have any questions, please do not hesitate to contact me.

Sincerely,



MICHAEL C. CASSIDY  
DISTRICT ATTORNEY

MCC/ajp

**MICHAEL C. CASSIDY**

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 LEGISLATIVE ATTORNEY  
**W. J. BLAIR, II**  
 LEGISLATIVE ATTORNEY

May 9, 1997

Office of Legislative Auditor  
 ATTN: Dr. Donald G. Kyle,  
 Legislative Auditor  
 P.O. Box 94097  
 Baton Rouge, LA 70804-9097

Dear Dr. Kyle:

This letter is in response to the investigation report by your office on the Special Asset Forfeiture Fund and the Drug Forfeiture Special Revenue Fund for the years 1994, 1995 and 1996. Although I am confident that every public official dreams of a perfect audit, I am still pleased that your report only indicates three minor findings. Obviously, my office has handled millions of dollars in these two accounts during the past three years. My office has several other banking accounts, duties, functions, and responsibilities; therefore, I feel like the minor discrepancies noted in your report vindicate my office of any allegations contained in the BATELINE segment.

In response to the first finding, I admit that the forfeited funds obtained in two cases totaling \$7,645.89 were not disbursed in a timely manner. Although the forfeiture law does not specify a time period to disburse forfeited funds, I recognize that generally accepted accounting practice would require a timely disbursement.

Apparently, the two files mentioned above were misplaced. As soon as your office brought this matter to our attention, the files were located and proper disbursements were made. The funds did continue to accrue interest during that period. I have instructed my staff to devise a better tracking/logging system on forfeiture cases to avoid this problem in the future.

In response to the second finding, I admit that the proceeds of \$4,616.00 from a 1994 sheriff's sale of two forfeited vehicles were not properly disbursed. The sheriff sold the vehicles to a local municipality as part of a cooperative redemptions agreement, since the vehicles had been forfeited to his agency. My secretary/bookkeeper thought that the funds represented the 20% allocation to my office. Due to this misunderstanding, she deposited the funds in the wrong account.

Once again, as soon as your office brought this matter to our attention, the funds were properly distributed to the sheriff's office, criminal court fund, and district attorney's

**District Attorney for the Thirty-First  
Judicial District**

**Attachment II**  
**Management's Responses**

- \$60 for a retirement luncheon for a United States customs agent
- Overland meals for 12 officers totaling \$61
- \$30 for tickets to the Sulphur High School soccer team crawfish boil

Captain Keith Andrus, who is head of narcotic investigations, maintains that these funds were used in connection with drug law enforcement. Captain Andrus stated that the buy money is used to purchase office supplies and other items because the police department does not have access to checks.

## CONCLUSION

Officials of these law enforcement agencies have informed us that a large portion of all crime committed within their jurisdictions is directly or indirectly related to the use and/or sale of illegal drugs. In addition, these officials have informed us that substantially all of their officers, not just narcotics officers, are involved in the fight against drug related criminal activity. The positions taken by the Jefferson Davis Parish Sheriff and the City of Sulphur are not without merit. However, the current wording of the law does not distinguish between direct or indirect association with drug law enforcement. It states only that the funds received by the seizing law enforcement agency must be used for drug law enforcement. The Property Forfeiture Law does not address whether the funds obtained through the law must be spent strictly on items that, by their nature, are directly related to the drug law or whether these funds may be spent on items that are indirectly related to the enforcement of drug laws.

We recommend that, for all expenditures of funds obtained through the Property Forfeiture Law, these agencies document the relationship of the expenditures to drug law enforcement. In some instances, such as with patrol officer salaries and computer costs, this may involve developing an appropriate method of allocating the cost associated with drug law enforcement to the asset forfeiture funds and using other funds to pay the portions of the costs associated with general law enforcement.

The Legislature may wish to consider legislation that either (1) allows an indirect use of these funds in drug law enforcement (as is described in the above matters) or (2) specifically prohibits the use of funds for any purpose other than directly related to the enforcement of drug laws.

not strictly drug law enforcement. During 1993, the police department used asset forfeiture funds to purchase 11 new vehicles at a total cost of \$185,400. All of these vehicles are assigned to regular patrol officers or other police officers not assigned to the narcotics department.

During 1994, the police department's radio system was updated at a cost to the asset forfeiture fund of \$343,300. This upgraded radio communication system benefits the entire police department, not strictly the narcotics division.

In 1994 and 1995, the city remodeled the police department building, constructed a covered walkway between the police department and the city hall, and added a room to its jail using funds obtained through the Property Forfeiture Law totaling \$10,900. Although this construction enhanced the police department, it was not strictly for drug law enforcement.

Asset forfeiture funds totaling \$18,751 were spent on generators, an air compressor, and a tire repair tool benefiting the police department as a whole and not strictly drug law enforcement.

From 1994 to 1996, \$2,030 of asset forfeiture funds were used for three seminars attended by police officials that do not appear to be related to drug law enforcement and no documentation of such a relationship was provided. The three seminars included a hypnosis training course, a course entitled "Managing Police Discipline and Personnel Administration," and a Certified Chemical Weapons Instructor Course.

In March 1994, the City of Sulphur reimbursed the Calcasieu Parish Sheriff's Office \$1,380 for a DNA test involving a local case of aggravated rape and aggravated kidnapping. We noted no documentation of a direct relationship to drug law enforcement.

The City of Sulphur Police Department routinely transfers money from the asset forfeiture fund to a petty cash fund called "buy money." This buy money is to be used to pay confidential informants for information and to purchase illegal drugs during law enforcement operations. From January 1994 to December 1996, \$45,300 was transferred from the asset forfeiture fund to the petty cash fund. Supporting documentation indicates that only \$27,946 was used to pay informants or to purchase drugs. The remaining \$17,354 was used for miscellaneous expenses including \$3,851 for office supplies, \$3,085 for employee meals, and \$822 for automobile expenses. These expenditures were not supported by documentation showing their relationship to drug law enforcement. Examples of these expenditures are as follows:

- Supplies including photography film for a rape case, ammunition for a shooting match, and trash bags related to a homicide case
- Business meals totaling \$562

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# Matter for Consideration

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The Property Forfeiture Law (R.S. 40:2601, *et seq.*) provides that 60 percent of the money in the asset forfeiture fund, after being reduced for bona fide security interests or liens and other expenses, shall be allocated to the law enforcement agency making the seizure. Such proceeds are to be used in drug law enforcement, including, but not limited to, reward programs. In performing our investigation, we attempted to determine whether the law enforcement agencies used funds obtained through the Property Forfeiture Law for "drug law enforcement." We discovered that in some instances the relationship of a particular expenditure to the enforcement of drug laws was clearly established. However, in other instances, this relationship was not clear. Below are some examples of expenditures noted as the Jefferson Davis Parish Sheriff's Office and the City of Sulphur Police Department where the relationship was not clear:

## **Jefferson Davis Parish Sheriff**

During 1994, 1995, and 1996, the Jefferson Davis Parish Sheriff's Office paid \$263,943, or 50 percent, of regular patrol officers' salaries using money obtained from the asset forfeiture fund. Although patrol officers are engaged in general law enforcement, according to Sheriff Ricky Edwards, they are often required to assist in drug-related cases. Sheriff Edwards stated that there was no way to track the time a regular patrol officer spends on drug-related cases. He stated that he discussed this matter with his auditor and the district attorney and that they decided to pay 50 percent of his regular patrol officers' salaries from asset forfeiture funds.

In 1994 and 1995, the Jefferson Davis Parish Sheriff's Office used \$6,804 of asset forfeiture funds to purchase three computers. These computers are used for the general operations of the sheriff's office, including, but not limited to, drug law enforcement.

During 1994, 1995, and 1996, asset forfeiture funds amounting to \$232 were used to purchase meals from the Beaulin King, a local restaurant. Although some of the receipts indicated that the meals were purchased in relation to narcotics investigations, there was no indication of how many persons attended, who attended, or the reason for these meals. In addition, the sheriff's office used \$67 of asset forfeiture funds to purchase 90 hamburgers from the Jennings High School girls' athletic department. As indicated on the invoice, the hamburgers were for the parish jail. These expenditures may not have been related strictly to drug law enforcement.

## **City of Sulphur - Police Department**

From 1994 through 1996, the police department purchased, with asset forfeiture funds, a new department-wide computer system, 25 laptop computers, and software for a total of \$195,137. This new system benefits all of the operations of the police department,

**Attachment I**  
**Matter for Consideration**

**Calcasieu Parish Sheriff's Office**

